

NJProb 12C/D

(6/23)

**United States Probation Office
United States District Court
for the District of New Jersey**

Petition for Summons or Warrant for Individual under Supervision

August 4, 2023

Name of Individual Under Supervision: Juan Rojas Hernandez
Reg. Number: 73414-050

Docket Number: 19-00888-003
PACTS Number: 6684193

Name of Judicial Officer: THE HONORABLE BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE

Original Offense: Count Two: Bank Robbery 18 U.S.C. § 2113(a) and (2) - a Class C Felony

Original Sentence: Imposed on 04/26/2023; 411 days imprisonment, 3 years supervised release

Current Custodial Status: At Liberty

Special Conditions: Drug Treatment, Substance Abuse Testing, Alcohol Restrictions, Financial Disclosure, Life Skills Counseling, No New Debt/Credit, Special Assessment, Restitution - Money, Alcohol Treatment, Education/Training Requirements

Date Supervision Commenced: 04/26/2023

Date Supervision Expires: 04/25/2026

Assistant U.S. Attorney: Vijay Dewan, 970 Broad Street, 7th Floor, Newark, New Jersey 07102, (973) 645-2700

Defense Attorney: Howard B. Brownstein, 512 42nd Street Union City, NJ 07087 (201) 866-4949

PETITIONING THE COURT:

- To issue a warrant
- To issue a summons
- To amend a previously filed petition

THE COURT ORDERS:

- The Issuance of a Warrant (as recommended by Probation). *THIS DOCUMENT SHALL BE SEALED UNTIL ARREST OF THE INDIVIDUAL UNDER SUPERVISION.*
- The Issuance of a Summons. Date and time of initial appearance: Sept. 12, 2023 @ 1:30 pm
Courtroom 1 before Judge Brian R. Martinotti.
- The petition dated _____ and filed with the Court on _____ is HEREBY AMENDED.
- No Action.
- Other.



August 4, 2023

Signature of Judicial Officer

Date

COURT ACTION TO DATE:

On July 31, 2023, a *Report on Offender Under Supervision* (12A) was submitted notifying the Court of his summons for driving without a driver's license. No formal court action was recommended.

DETAILS OF VIOLATIONS:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1	The individual under supervision has violated the mandatory supervision condition which states ' You must not commit another federal, state, or local crime. '

On August 3, 2023, a criminal complaint/warrant was generated by the Jersey City, New Jersey Police Department. Juan Rojas-Hernandez was charged with Simple Assault (2C:12-1A, a disorderly persons offense).

According to reports, on August 3, 2023, officers from the Jersey City Police Department were dispatched to 11 Armstrong Avenue Apt.#17, for a domestic dispute. Upon their arrival, they met with victim M.R. who stated that Mr. Rojas-Hernandez grabbed her arm, shoved, and pushed her multiple times. M.R. had visible signs of injuries around the area of her arms, chest, and neck. Mr. Rojas-Hernandez was then placed under arrest and charged with domestic violence simple assault. This matter remains pending in Municipal Court.

The Probation Office has determined this conduct constitutes a **Grade C violation.**

INDIVIDUAL UNDER SUPERVISION'S COMMENTS AS TO ALLEGED VIOLATION(S):

Mr. Rojas-Hernandez has not provided any comment to this violation.

STATUTORY PROVISIONS AND CASE LAW:

The individual under supervision's exposure to all penalties is presented in the Appendix.

Pursuant to 18 U.S.C. § 3583(i), the power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the individual under supervision to serve a term of imprisonment and, subject to the limitations in subsection (h) of 18 U.S.C. § 3583, a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation. Reference is made to the Third Circuit's ruling in *U.S. v. Merlino*, 785 F.3d 79 (3rd Cir. 2015).

18 U.S.C. § 3583(e)(3) provides for revocation of a term of supervised release if the court finds by a preponderance of the evidence that the individual under supervision violated a condition of supervised release. Accordingly, the court will require the individual under supervision to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously spent on post-release supervision.

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Cases in which the original offense of conviction was committed on or after April 30, 2003, are subject to the provisions of the PROTECT Act (Pub. L 108-21, 117 Stat. 650), which amended 18 U.S.C. § 3583(e)(3) with regard to the custodial exposure upon revocation. The amount of custodial time available to the Court upon revocation is the maximum term authorized at 18 U.S.C. § 3583(e)(3). This available time is not reduced by the custodial time imposed as a result of any prior revocation of supervision. Reference is made to the Third Circuit's ruling in *U.S. v. Williams*, 675 F.3d 275 (3rd Cir. 2012).

Pursuant to 18 U.S.C. § 3583(e)(3), if revoked, Juan Rojas Hernandez is facing a maximum statutory penalty of two years imprisonment.

Pursuant to 18 U.S.C. § 3583(h), when a term of supervised release is revoked and the individual under supervision is required to serve a term of imprisonment, the court may include a requirement that the individual under supervision be placed on a term of supervised release after imprisonment. The amount of time available for reimposition of supervised release in cases in which the original offense of conviction was committed on or after April 30, 2003, is the maximum term of supervision allowed by statute for the original offense of conviction minus any term of imprisonment imposed upon revocation plus custodial time ordered on prior revocations.

POLICY STATEMENT/GUIDELINE PROVISIONS:

The individual under supervision's exposure to all penalties is presented in the Appendix.

The U.S. Sentencing Commission has promulgated specific policy with respect to probation and supervised release violations. Pursuant to § 7B1.4(a) of the guidelines, with a Criminal History Category of III and a Grade A violation, the individual under supervision faces a guideline range of 18 to 24 months custody. For a Grade B violation, the individual under supervision faces a guideline range of 8 to 14 months custody. For a Grade C violation, the individual under supervision faces a guideline range of 5 to 11 months custody.

Upon a finding of a Grade A or B violation, pursuant to USSG § 7B1.3(a)(1), the court will revoke supervised release.

Upon a finding of a Grade C violation, pursuant to USSG § 7B1.3(a)(2), the court may (A) revoke probation or supervised release or (B) extend the term of probation or supervised release and/or modify the conditions of supervision.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

SUSAN M. SMALLEY, Chief
U.S. Probation Officer


By: RICHARD J. PASTRANA
U.S. Probation Officer

/ rjp

APPROVED:



08/04/2023

KEVIN M. VILLA Date
Supervising U.S. Probation Officer

APPENDIX
Statutory and guideline exposure

VIOLATION GRADE: A
CRIMINAL HISTORY CATEGORY: III

	Statutory Provisions	Guideline Provisions
CUSTODY:	Up to 2 years	18-24 months
SUPERVISED RELEASE:	Up to 3 years (less any term of imprisonment imposed upon revocation, plus custodial time imposed on prior revocations)	Up to 3 years (less any term of imprisonment imposed upon revocation, plus custodial time imposed on prior revocations)

VIOLATION GRADE: B
CRIMINAL HISTORY CATEGORY: III

	Statutory Provisions	Guideline Provisions
CUSTODY:	Up to 2 years	8-14 months
SUPERVISED RELEASE:	Up to 3 years (less any term of imprisonment imposed upon revocation, plus custodial time imposed on prior revocations)	Up to 3 years (less any term of imprisonment imposed upon revocation, plus custodial time imposed on prior revocations)

VIOLATION GRADE: C
CRIMINAL HISTORY CATEGORY: III

	Statutory Provisions	Guideline Provisions
CUSTODY:	Up to 2 years	5-11 months
SUPERVISED RELEASE:	Up to 3 years (less any term of imprisonment imposed upon revocation, plus custodial time imposed on prior revocations)	Up to 3 years (less any term of imprisonment imposed upon revocation, plus custodial time imposed on prior revocations)